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It is submitted that the principle of contribution should be applied to this situation.⁷ This principle does not depend on the consent of the parties, but has its foundation in the doctrine that in certain situations burdens should be equally shared. H should not profit by the chance that T sold the stock of M and X rather than his. The use of stock of M and X has increased the value of that of H by releasing it from the claims of T. Property of two has been used to release an obligation equally binding on that of a third, and the property of all should contribute. H, M, and X should therefore share *pro rata* according to their beneficial interests in the stock originally pledged.

It should be noted that it has been held that tender to the broker by M and X makes them rank with H, since tender terminates the broker's interest in their stock.⁸ At the time of the repledge, however, H acquired the right to have the stock of M and X bear a certain portion of the burden. This right should not be impaired by any subsequent transaction in which he had no part, since all parties acted with knowledge of his rights. Under either view, however, the principle of contribution would still apply.

SUICIDE AS A CRIME. — That suicide is a crime under the English common law appears from the resulting forfeiture of an offender's goods; that this crime is, moreover, regarded as a form of murder appears from the line of cases holding that one who persuades another to kill himself is guilty either as principal or accessory to the crime of murder.¹

The fact that no punishment by way of forfeiture of goods or otherwise is prescribed for the suicide under our law has given rise to the belief that suicide is not a crime. Expressions of various courts to this effect² are recorded even in jurisdictions in which the common law still prevails. On the other hand, in those same jurisdictions, one who accidentally kills another in an attempt to commit suicide is held for murder,³ and one who persuades another to kill himself is guilty of the same crime either as principal or accessory.⁴ The two positions taken by the courts seem irreconcilable. If suicide is not a crime it is hard to understand how one who persuades another to commit suicide is guilty of any crime. And if suicide is not murder it is hard to see how one who persuades to suicide can be accessory to murder. A Texas court,⁵ after asserting that the suicide is innocent of violating the laws of that state, is at least consistent in making the further assertion that the party furnishing the means to the suicide must likewise be innocent.

In jurisdictions in which the common law has been entirely superseded by statute and the statutory definition of murder is not broad enough to comprehend suicide, the law on this point would seem to be finally determined; nevertheless, there exists the same tendency on the part of the courts, while holding the suicide himself innocent of any crime, to punish

⁷ *McBride v. Potter-Lovell Co.*, 169 Mass. 7.

⁸ *Rhineland v. National City Bank*, 36 N. Y. App. Div. 11.

¹ *Rex v. Dyson*, Russ. & R. 523; *Regina v. Allison*, 8 C. & P. 418; *Rex v. Russell*, 1 Moo. C. C. 356.

² See *Commonwealth v. Mink*, 123 Mass. 422, 429.

³ *Commonwealth v. Mink*, *supra*; *State v. Levelle*, 34 S. C. 120.

⁴ *Commonwealth v. Bowen*, 13 Mass. 356.

⁵ *Grace v. State*, 69 S. W. Rep. 529 (Tex., Cr. App.).

the abettor. In a recent Illinois case suicide was held to be no crime under the statutes of that state, and, therefore, no defense to recovery on a contract of insurance providing that the certificate should be void if the member died in consequence of a violation of the laws of the state. *Royal Circle v. Achterrath*, 68 N. E. Rep. 492. The same court in another case⁶ suggests that, although suicide is no crime, the one who procures another to commit the act of self-destruction may be held liable as a principal to the crime of murder, on grounds somewhat analogous to the theory of agency in civil cases. But, since the agent's act for which the principal is to be held guilty is suicide, it follows that if this suggestion is correct suicide must be murder in spite of the court's express disaffirmation.

The foregoing seems to indicate that under our law suicide is no less criminal than under the English common law, but that the policy of our law in dealing with the suicide is radically different. No punishment is, in general, prescribed either for one who kills himself or for one who unsuccessfully attempts to do so, not because his act is not criminal, but because the futility of such measures in preventing future crime is now generally recognized.⁷ These considerations, however, cannot be invoked to shield one who encourages, abets, or assists another in committing suicide, and he should, therefore, be punished as any other criminal. Although, under a code which makes no mention of suicide and which defines murder as the malicious killing of another, there may be no logical ground upon which the abettor can be held guilty of any crime, nevertheless, in jurisdictions in which the common law definition of murder still obtains, suicide may well be considered as one form of murder, and the abettor punished accordingly.

THE ENJOINING OF CRIMINAL PROCEEDINGS.—It is an ancient maxim that a court of equity will not restrain criminal proceedings.¹ Like most legal maxims, this assertion, though generally true, does not accurately represent the state of the law. In one case at least, equity freely enjoins criminal proceedings, that is, when the party instituting them is already a plaintiff in equity against the same defendant. In such a case the court of equity will not allow the criminal court to interfere with its jurisdiction to the annoyance of the defendant.² And in certain other cases an injunction has been allowed where the party instituting the criminal proceedings has not come into equity at all.³ It must be admitted, however, that the courts appear to have adopted no general principles on which relief may be granted. About all that can be said is that the plaintiff must make out a sufficiently hard case. Still it is not impossible to get some idea of the considerations which should appeal to the court in the exercise of its discretion.

It would seem necessary, in the first place, to distinguish between *ex relatione* proceedings and cases prosecuted by an officer really acting in behalf of the state. In the first class of actions the officer is, in fact, redressing a private injury; in the second, he is trying to secure the

⁶ See *Burnett v. People*, 68 N. E. Rep. 505, 511 (Ill.).

⁷ See 17 HARV. L. REV. 331.

¹ See Story, Eq. Jur. 13th ed., § 893; *Lord Montague v. Dudman*, 2 Ves. 396.

² *Mayor of York v. Pilkington*, 2 Atk. 302.

³ *Iron Works v. French*, 12 Abb. N. C. (N. Y.) 446.